



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 14, 1998

The Honorable Gonzalo Barrientos
Chair, Committee of the Whole on
Legislative and Congressional Redistricting
Texas State Senate
P.O. Box 12068
Austin, Texas 78711

Letter Opinion No. 98-059

Re: Whether the Texas Crime Stoppers Advisory
Council is an advisory committee subject to
automatic abolition pursuant to Government Code
section 2110.008 (RQ-1082)

Dear Senator Barrientos:

You ask whether the Texas Crime Stoppers Advisory Council (the "council") is an advisory committee subject to automatic abolition pursuant to Government Code section 2110.008. We conclude the council is not subject to automatic abolition under that provision because it is not an advisory committee within the meaning of Government Code chapter 2110.

Government Code chapter 2110 contains certain provisions generally applicable to state agency "advisory committees," which it defines as follows:

In this chapter, "advisory committee" means a committee, council, commission, task force, or other entity in the executive branch of state government that:

- (1) is not a state agency;
- (2) is created by or under state law; and
- (3) *has as its primary function advising a state agency.*

Gov't Code § 2110.001 (emphasis added). Government Code section 2110.008, subsection (a) provides that a state agency that is advised by an advisory committee shall establish by rule a date on which the committee will automatically be abolished. *Id.* § 2110.008(a). The advisory committee may continue in existence after that date only if the governing body of the agency affirmatively votes to continue the committee in existence. *Id.* An advisory committee is automatically abolished on the fourth anniversary of the date of its creation unless the state agency establishes a different date under subsection (a). *Id.* § 2110.008(b).

Government Code chapter 414 establishes and governs the council. The council, which is within the criminal justice division of the governor's office, consists of five members appointed by

the governor with the advice and consent of the senate. *Id.* § 414.002(a), (b). The council employs a director who must be approved by the governor. *Id.* § 414.004. Although the council is within the governor's office, a state agency, and the governor must approve the council's director, we do not believe that the council's primary function is to advise the governor's office or any other state agency.

The legislature has assigned to the council the duties set forth in the following provision:

The council shall:

- (1) advise and assist in the creation of crime stoppers organizations;
- (2) foster the detection of crime and encourage persons to report information about criminal acts;
- (3) encourage news and other media to promote crime stoppers organizations and to inform the public of the functions of the council;
- (4) assist crime stoppers organizations in forwarding information about criminal acts to the appropriate law enforcement agencies; and
- (5) help law enforcement agencies detect and combat crime by increasing the flow of information to and between law enforcement agencies.

Id. § 414.005. In addition, the council is charged by the legislature with certifying local crime stoppers organizations to establish their eligibility for repayments of rewards under Code of Criminal Procedure articles 37.073 and 42.152¹ or payments from a defendant under Code of Criminal Procedure article 42.12.²

The council shall certify a crime stoppers organization to receive those repayments or payments if, considering the organization, continuity, leadership, community support, and general conduct of the crime stoppers organization, the council determines that the repayments or payments will be spent to further the crime prevention purposes of the organization.

¹Code of Criminal Procedure article 37.073 authorizes a judge to order a defendant convicted of a felony offense to repay all or part of a reward offered by a crime stoppers organization. Such a repayment is collected as a cost. *See* Code Crim. Proc. art. 42.152.

²Code of Criminal Procedure article 42.12, section 11(a)(21) authorizes a judge to impose on a defendant a \$50 payment to a crime stoppers organization as a condition of community supervision.

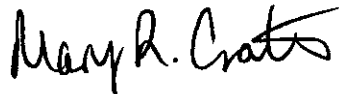
Id. § 414.011(a). The council is also charged with establishing and operating a toll-free telephone number, in areas of the state not served by a crime stoppers organization, to receive and forward information about criminal acts. *Id.* § 414.012. And significantly, the legislature has authorized the council to adopt rules to carry out its functions. *Id.* § 414.006.

As the foregoing review of chapter 414 demonstrates, the legislature has assigned the council a variety of functions. The council's exercise of its duties and powers is not subject to approval or contingent on any other action by the governor or the governor's office. For this reason, the council's authority is not merely advisory. Given the variety of functions the legislature has assigned to the council in chapter 414 and the nature of the council's authority, we cannot conclude that the council's "primary function" is to advise the governor's office or any other state agency. Accordingly, we conclude that the council is not an advisory committee subject to automatic abolition under Government Code section 2110.008.

S U M M A R Y

The Texas Crime Stoppers Advisory Council is not an advisory committee subject to automatic abolition under Government Code section 2110.008.

Yours very truly,



Mary R. Crouter
Assistant Attorney General
Opinion Committee